

REMARKS

Claims 1-4 are pending in this application. By this Amendment, claims 1-3 are amended. The amendments introduce no new matter because they are made to clarify the subject matter recited in the pending claims. An Office Action was mailed on December 11, 2007 that finally rejected all of pending claims 1-4. In response, Applicant filed a Request for Reconsideration After Final Rejection on April 10, 2008. The Request argued why Applicant believes that the rejection of the pending claims enumerated in the Final Rejection was in error. In reply, an Advisory Action was mailed on May 6, 2008 that stated, in pertinent part, that for the same reasons set forth in the Final Office Action, the Request for Reconsideration After Final Rejection was not considered to place the application in condition for allowance. Applicant filed a Notice of Appeal and Pre-Brief Request for Review on May 12, 2008 setting forth, in specific detail, Applicant's position regarding the patentability of the pending claims. A Notice of Panel Decision from Pre-Appeal Brief Review was mailed on June 20, 2008 indicating that the application remains under appeal. Applicant's arguments, and the above-enumerated claim amendments, respond to the December 11, 2007 Final Rejection. A Request for Continued Examination is attached. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 3, continues to reject claims 1-4 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0028589 to Reisinger et al. (hereinafter "Reisinger"). This rejection is respectfully traversed.

In response to Applicant's previous arguments, the Advisory Action continues to conclude that any catalyst disclosed in Reisinger is the same as Applicant's claimed catalyst. Applicant is aware that it is the catalytic structure and characteristics of the catalyst that determine the patentability of the claimed catalyst and not its intended use limitations, as instructed by the Advisory Action. It remains Applicant's position that Reisinger fails to

clearly teach the claimed catalyst having the claimed structure of the same catalytic materials, as is recited in the pending claims.

Without abandoning any of the previous arguments regarding the non-applicability of the Reisinger reference, Applicant amends the pending claims to better distinguish the subject matter recited in those claims over any, even broad, application of the Reisinger reference. The Office Action, in paragraph 3, asserts that Reisinger comprises a ceria/zirconia mixed oxide, which is stabilized by certain additive members. At paragraphs [0018] and [0019], Reisinger teaches a "zirconia-rich" material that contains at least more than 50% by weight of zirconia, preferably more than 60 and most preferable more than 80% by weight, the balance being formed by one or more of a list of specific materials. The other materials are indicated as serving to stabilize zirconia against thermal stresses. Paragraph [0018] indicates that most preferably a zirconia-rich zirconia/ceria mixed oxide is used. Paragraph [0019] goes on to indicate that the support also contains ceria-rich ceria/zirconia mixed oxide compounds with a ceria concentration of from 60 to 90 wt.-% relative to the total weight of the mixed oxide. When the disclosure of Reisinger speaks about a mixed oxide, it is very specific in defining this term as "an intimate mixture of two or more oxides on an atomic level which may be regarded as a new chemical compound." Any reference in Reisinger to a combination of cerium and zirconium is in the context of such a mixed oxide.

Claim 1 recites, among other features, a loading layer formed on the catalyst support substrate, and comprising cerium oxide and zirconium oxide in a summed amount of 80% by weight or more with respect to the entire loading layer taken as 100% by weight. Even a broad construction of Reisinger cannot reasonably be considered to teach, or to have suggested, such a feature. In response to the arguments presented in paragraph 4 of the Office Action, where the Office Action previously asserted that the claimed metal oxide ratio does not appear to be patentably distinguished from the disclosed metal oxide ratio, it should be

noted that, as Applicant has argued before, the claimed ranges are not specifically anticipated by the Reisinger. In fact, interpreting the disclosures of paragraphs [0016] - [0023] of Reisinger, in the manner that the Office Action attempts, requires an interpretation of the reference that appears to be unsupportable in the reference itself to find the claimed ranges explicitly, or even impliedly, anticipated. The specific combinations of features recited in the claims, including further those recited in claim 2 wherein it is indicated that a ratio of the cerium oxide with respect to the zirconium oxide falls in a range of from 1 : 2 to 5 : 1 by weight, secure unexpected results which were not known in the prior art. The loading layer comprising cerium oxide and zirconium oxide gives an improved low temperature response, i.e., improved effective purifying performance in a low temperature region. Cerium oxide provides the high O₂ storage ability for such upgraded purifying performance, while the zirconium oxide inhibits a specific surface area of cerium oxide from decreasing when it coexists with the cerium oxide and functions in addition to purify the exhaust gases.

With respect to the specific ratios enumerated in claim 2, Applicant's disclosure at paragraph [0024] indicates the advantage to this specific range. This portion of Applicant's disclosure notes that when the cerium oxide content is less, the advantage gained of the high O₂ storage capability of the cerium oxide is not fully exploited. At the other end of the range, when the cerium oxide content is excessive, the content occupied by the cerium oxide in the loading layer is so excessive that it is impossible to keep a specific surface area of the loading layer. The specific range enumerated in the pending claims, with the specific advantages asserted, is not recognized by any disclosure in Reisinger.

For the record, as indicated Applicant does not abandon any of the previous arguments regarding the inapplicability of Reisinger specifically to the subject matter of the pending claims. The current amendments are made in an effort to further prosecution of this application based on the totality of the prosecution history to date.

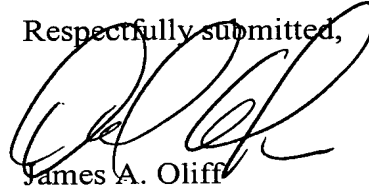
For at least the above reasons, Reisinger cannot reasonably be considered to teach, or to have suggested, the combinations of all of the features positively recited at least in independent claim 1, and dependent claim 2. Further, claims 3 and 4 are neither taught, nor would they have been suggested, by Reisinger for at least the respective dependence of these claims directly on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-4 under 35 U.S.C. §102(e) as being anticipated by Reisinger are respectfully requested.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-4 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



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Attachment:

Request for Continued Examination

Date: July 17, 2008

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